

Remark

Applicants respectfully request reconsideration of this application as amended. No claims have been amended. No claims have been canceled. Therefore, claims 1-20 and 33-45 are now presented for examination.

Finality of Action

Applicants respectfully request that the finality of the present Office action be withdrawn. This is the first Office action in response to an RCE. The Examiner acknowledged in the Office action of 1/27/2003 that the amendments of the RCE raised new issues. In response to the amendments of the RCE a new search was performed and a new reference was cited. Accordingly, the finality of this, the first action on the RCE, is inconsistent with PTO rules and practice.

Response to Arguments

Applicants address the new rejection below. As for Claim 37, Applicants draw the Examiner's attention to the third element, "continuously cycling through the preferences list by... ." This is a distinction from Ellis which stops after each cycle.

35 U.S.C. §103 Rejection,***Rzeszewski in view of Klosterman and Etheredge***

The Examiner has rejected claims 1-20 under 35 U.S.C. 103 (a) as being unpatentable over Rzeszewski, U.S. Patent No. 5,699,125 ("Rzeszewski") in view of

Klosterman, U.S. Patent No. 5,550,576 ("Klosterman") and Etheredge, U.S. Patent No. 6,018,372 ("Etheredge") As a preliminary matter, Applicants respectfully point out that the claims do not recite "using a different transport medium from another source and selecting a channel from a plurality of different sources." All reference to multiple sources was deleted from the claims some months ago. Accordingly, the reliance on Klosterman seems misplaced.

With respect to the new reference, it appears that "access to each channel can be turned on or off for a particular user, (6:1)" the user being identified by user names and optional passwords. In addition, each user "is provided with the opportunity to list titles of shows that they want to view, that they like or that they dislike.(6:24)" This information appears to be used in some complex fashion which is not relevant to the present invention.

Etheredge is relied upon for teachings regarding a user ID. However, the combination of Rzeszewski and Etheredge is still not enough to suggest the limitations of e.g. Claim 1. Etheredge neither teaches nor suggests the several steps of Claim 1, including searching to identify a set of user-definable preference lists for the identified user, presenting the lists to the user, and receiving a selection of a list from the user. In Etheredge, each user still has just one channel list which is called up in response to the user name. The process would appear to be transparent to the user and not involve, presenting identified lists and receiving a selection from the user as recited in Claim 1. The customer in Etheredge can only select a different channel list by entering a different user name. This differs little from Herz relied upon in the previous rejection.

For the reasons above, Applicants respectfully submit that the cited combination of references fail to teach or suggest the limitation of Claim 1 discussed above. Claims 6, 11, and 16 contain similar recitations and are believed to be allowable therefor, together with the claims that depend from any one of Claims 1, 6, 11, and 16.

35 U.S.C. §103 Rejection,

Rzeszewski in view of Klosterman and Etheredge and further in view of Ellis

The Examiner has rejected claims 33-45 under 35 U.S.C. 103 (a) as being unpatentable over Rzeszewski in view of Klosterman and Etheredge and further in view of Ellis, U.S. Patent No. 5,986,650 ("Ellis"). Applicants note again that the reliance on Klosterman appears to be misplaced. Assuming, for the sake of argument, that Ellis provides a passive indication of the completion of a cycle by stopping a scan, this is a different kind of a system from that of Claim 37 because Claim 37 specifically recites "continuously cycling through the preferences list..." Accordingly, this feature is unique and not suggested by any of the references. As for claims 33-36, these depend from Claim 1 or 11, discussed above.

Conclusion

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

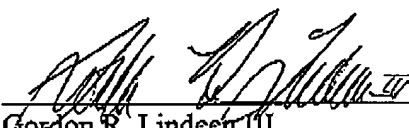
Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 4/11/03


Gordon R. Lindeen III
Reg. No. 33,192

12400 Wilshire Boulevard
7th Floor
Los Angeles, California 90025-1026
(303) 740-1980